



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 5, 1997

Ms. Marcelle Sattiewhite Jones
Assistant City Attorney
City of Arlington
P.O. Box 231
Arlington, Texas 76004-0231

OR97-2652

Dear Ms. Jones:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 111325.

The Arlington Police Department (the "department") received an open records request for the "full true story" of an attempted theft at a Target department store. You have submitted to this office as responsive to the request a complete copy of the offense report pertaining to the attempted theft. You contend the requested information is excepted from required public disclosure pursuant to sections 552.103 and 552.108 of the Government Code. Because we resolve your request on other grounds, however, we need not address the applicability of these exceptions.

Although the attorney general will not ordinarily raise an exception that might apply but that the governmental body has failed to claim, *see* Open Records Decision No. 325 (1982) at 1, we will raise section 552.101 of the Government Code, which protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," because the release of confidential information could impair the rights of third parties and because the improper release of confidential information constitutes a misdemeanor. *See* Gov't Code § 552.352.

Some of the information at issue pertains to a juvenile who was detained by an Arlington police officer and subsequently issued a Class C citation for disposition in the municipal court. Section 58.007(c) of the Family Code provides in pertinent part:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child may not be disclosed to the public and shall be:

- (1) kept separate from adult files and records; and
- (2) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

In this instance, the department has not "kept separate from adult files and records" the records pertaining to the juvenile offender. We therefore conclude that the requested records must be withheld in their entirety pursuant to section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/RWP/rho

Ref.: ID# 111325

Enclosures: Submitted documents

cc: Ms. Sila Kovar
704 Aberdeen Way
Southlake, Texas 76092
(w/o enclosures)